

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

673B0442

## SENATE JOINT RESOLUTION NO. 2

Introduced by: Senators Halverson and Symens and Representatives Haley and McNenny

1 A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election  
2 amendments to Article VIII of the Constitution of the State of South Dakota to permit the  
3 investment of the permanent school funds in certain stocks, bonds, mutual funds, and other  
4 financial instruments.

5 BE IT RESOLVED BY THE SENATE OF THE STATE OF SOUTH DAKOTA, THE  
6 HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

7 Section 1. That at the next general election held in the state, the following amendments to  
8 sections 2, 3, 7, 11, and 13 of Article VIII of the Constitution of the State of South Dakota, as  
9 set forth in sections 2, 3, 4, 5, and 6 of this Joint Resolution, which is hereby agreed to, shall be  
10 submitted to the electors of the state for approval.

11 Section 2. That Article VIII, section 2 of the Constitution of the State of South Dakota, be  
12 amended to read as follows:

13 § 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be  
14 given by the United States for the use of public schools in the state; all such per centum as may  
15 be granted by the United States on the sales of public lands; the proceeds of all property that  
16 shall fall to the state by escheat; the proceeds of all gifts or donations to the state for public

1 schools or not otherwise appropriated by the terms of the gift; and all property otherwise  
2 acquired for public schools, shall be and remain a perpetual fund for the maintenance of public  
3 schools in the state. It shall be deemed a trust fund held by the state. The principal shall ~~forever~~  
4 ~~remain inviolate~~ never be diverted by legislative enactment for any other purpose, and may be  
5 increased, ~~but shall never be diminished, and the state shall make good all losses thereof which~~  
6 ~~may in any manner occur~~; but, if any loss occurs through any unconstitutional act, the state shall  
7 make the loss good through a special appropriation.

8 Section 3. That Article VIII, section 3 of the Constitution of the State of South Dakota, be  
9 amended to read as follows:

10 § 3. The interest and income of this fund together with all other sums which may be added  
11 thereto by law, shall be faithfully used and applied each year for the benefit of the public schools  
12 of the state, and shall be for this purpose apportioned among and between all the several public  
13 school corporations of the state in proportion to the number of children in each, of school age,  
14 as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted,  
15 by legislative enactment, even temporarily, from this purpose or used for any other purpose  
16 whatever than the maintenance of public schools for the equal benefit of all the people of the  
17 state. However, the principal may be prudently invested as provided by law.

18 That the proceeds of all fines collected from violations of state laws shall be paid to the  
19 county treasurer of the county in which said fine shall have been imposed, and by him distributed  
20 among and between all of the several public schools incorporated in such county in proportion  
21 to the number of children in each, of school age, as may be fixed by law.

22 Section 4. That Article VIII, section 7 of the Constitution of the State of South Dakota, be  
23 amended to read as follows:

24 § 7. All lands, money or other property donated, granted or received from the United States  
25 or any other source for a university, agricultural college, normal schools or other educational or

1 charitable institution or purpose, and the proceeds of all such lands and other property so  
2 received from any source, shall be and remain perpetual funds, the interest and income of which,  
3 together with the rents of all such lands as may remain unsold, shall be inviolably appropriated  
4 and applied to the specific objects of the original grants or gifts. The principal of every such fund  
5 may be increased, but shall never be ~~diminished~~ diverted by legislative enactment for any other  
6 purpose, and the interest and income only shall be used. Every such fund shall be deemed a trust  
7 fund held by the state, and the state shall make good all losses therefrom that ~~shall in any manner~~  
8 may occur through any unconstitutional act.

9 Section 5. That Article VIII, section 11 of the Constitution of the State of South Dakota, be  
10 amended to read as follows:

11 § 11. The moneys of the permanent school and other educational funds shall be invested by  
12 the state investment council in stocks, bonds, mutual funds, and other financial instruments as  
13 provided by law.

14 Section 6. That Article VIII, section 13 of the Constitution of the State of South Dakota, be  
15 amended to read as follows:

16 § 13. ~~All losses to the~~ The permanent school or other educational funds of this state ~~which~~  
17 ~~shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents~~  
18 ~~or officers controlling and managing the same;~~ shall be audited by the proper authorities of the  
19 state. ~~The amount so audited shall be a permanent funded debt against the state in favor of the~~  
20 ~~fund sustaining the loss upon which not less than six per centum of annual interest shall be paid.~~  
21 If any loss occurs through any unconstitutional act, the state shall make the loss good through  
22 a special appropriation. The amount of indebtedness so created shall not be counted as a part of  
23 the indebtedness mentioned in article XIII, § 2.